

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

<p>(1) RHONDA OLIVERA,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>(1) AMERICAN COMMERCE INSURANCE COMPANY,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 12-CV-487-GKF-FHM</p> <p>(Rogers County District Court Case No. CJ-2011-70)</p>
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DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 20 U.S.C. § 1446, Defendant American Commerce Insurance Company (“ACIC”) give notice of removal from the District Court of Rogers County, State of Oklahoma, to the United States District Court for the Northern District of Oklahoma. In support of this Notice, ACIC states as follows:

1. Rhonda Olivera filed a Petition against and Linda Moore in the District Court of Rogers County, Oklahoma, on January 27, 2011. *See* Exhibit 1, Petition, attached hereto.

2. Olivera filed an Amended Petition on May 21, 2012 adding ACIC as a Defendant. *See* Exhibit 2, Amended Petition, attached hereto.

3. ACIC was served on May 30, 2012.

3. Plaintiff Rhonda Olivera has sued Defendant ACIC for un/underinsured motorists coverage for damages “in an amount in excess of Seventy Five Thousand Dollars.” *Id.*

4. The accident that gives rise to the underlying suit occurred on April 1, 2009 in Rogers County, Oklahoma, when the Plaintiff alleges that she was injured as a result of a motor vehicle caused by Linda Moore’s failure to yield. *See* Exhibit 2, Amended Petition, attached hereto.

5. Plaintiff sued Linda Moore and ACIC in Case No. CJ-2011-70 in the District Court of Rogers County, Oklahoma, but on the 26th day of July, 2012, she dismissed her claim against Linda Moore with prejudice to the refilling thereof. *See* Exhibit 1, Petition; Exhibit 2, Amended Petition; Exhibit 3, Motion to Dismiss; and Exhibit 4, Dismissal With Prejudice, attached hereto.

6. Plaintiff is a citizen of the State of Oklahoma. *See* Exhibit 2, Amended Petition, attached hereto.

7. Defendant ACIC is a corporation created under the laws of the State of Ohio, and has its principal place of business in Columbus, Ohio. *See* Exhibit 5, Defendant ACIC's Quarterly Financial Statement, attached hereto.

8. This Court has jurisdiction because of the complete diversity of citizenship of the parties hereto, and the sufficiency of the amount in controversy, pursuant to 28 U.S.C. § 1332 (a)(1).

9. In accordance with 28 U.S.C. § 1446(a) and LCvR 81.2, copies of all documents served on ACIC in the case to date, along with a copy of the Docket Sheet, are submitted with this Notice of Removal. *See* Exhibit 6, Docket Sheet and Exhibits 2-4, Documents Served on ACIC, attached hereto.

WHEREFORE, premises considered, Defendant ACIC does respectfully pray that its Notice of Removal be accepted by this Court, and that the lawsuit proceed as an action properly removed to this Court's jurisdiction.

Respectfully submitted,

s/Phil R. Richards

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ATTORNEY FOR DEFENDANT
AMERICAN COMMERCE INS. CO.

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August, 2012, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

Bret A. Smith, Esq.
Rick Paynter, Esq.
PO Box 2250
Muskogee, Oklahoma 74402

ATTORNEYS FOR PLAINTIFF

s/Phil R. Richards